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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,636	01/27/2004	Gerald R. Savicki JR.	905P164	2271
44564	7590	07/01/2005	EXAMINER	
BOND, SCHOENECK & KING, PLLC 10 BROWN ROAD, SUITE 201 ITHACA, NY 14850-1248			KLAUS, LISA NHUNG	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/765,636	<b>Applicant(s)</b> SAVICKI ET AL.	
	<b>Examiner</b> Lisa N. Klaus	<b>Art Unit</b> 2832	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Endres et al.

(US 6,875,940).

**- Regarding claim 1, Endres discloses:**

- a switch body 300 including switch contact 312;
- a mounting trap 123 attached to the switch body 300;
- a frame 400 attached to the switch body 300;
- a paddle 112 for actuating the switch contacts 312;
- wherein the paddle 112 has a pivot structure cooperatively engageable with a portion of the frame 400 for selective rotational movement around a pivot axis between a limited forwardly-tilted position and a limited rearwardly-tilted position;
- wherein the paddle 112 has a uni-convex cylindrical exterior surface with a curvature;

**- Regarding claim 2, Endres discloses:**

- the paddle 112 has an actuating structure integrally attached to a rear surface thereof having a distal end that operationally enables an open-switch condition and a closed-switch condition;

**- Regarding claim 3, Endres discloses:**

- the paddle 112 has an upper and a lower circumferential surface (see the attachment) each having a curvature,  $R_b$ , the center of which originates along the pivot axis;

- Regarding claim 4, Endres discloses:

- one of the upper and the lower circumferential surfaces engages a space (see the attachment) intermediate a portion of the mounting strap and a surface of the frame in one of the forwardly-tilted position and the rearwardly-tilted position;

- Regarding claim 5, Endres discloses:

- the paddle 112 includes an indicia 111 for identifying one of a position of the paddle 112 and an indication of the switch status;

- Regarding claim 6, Endres discloses:

- the indicia 111 is a surface indent;

- Regarding claim 7, Endres discloses:

- the faceplate 138 in **the form of a frame** having an opening (see figure 4) perimeter defined by upper and opposing lower inner surfaces and left and opposing right inner surfaces, wherein the faceplate 138 has a uni-convex cylindrical exterior front surface with a curvature,  $R_f$  (see the attachment);

- Regarding claim 8, Endres discloses:

- the paddle 112 occupies the faceplate opening in an assembled condition, further wherein a portion of the convex profile of the paddle surface is tangent to a corresponding portion of a convex cross sectional profile of the faceplate surface when the paddle is in one of the forwardly-tilted position and the rearwardly-tilted position;

- Regarding claim 9, Endres discloses:

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- the axial center line of the faceplate opening and an axial centerline of the paddle 112 have a constant intersection point along the pivot axis;

- Regarding claim 10, Endres discloses:

- the paddle 112 includes an upper and a lower circumferential surface having a curvature,  $R_b$ , the center of which originates along the pivot axis; wherein the upper and opposing lower inner surfaces of the faceplate opening perimeter have a curvature,  $R_a$ , the center of which originates along the pivot axis.

***Claim Rejections - 35 USC §.103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Endres et al. (US 6,875,940).

Regarding claim 11, Endres discloses the instant claim invention as discussed above except for a curvature,  $R_a = R_b$ .

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the curvature  $R_a = R_b$  for the purpose of cosmetic appearance, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

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**Conclusion**

3. Any inquiry concerning this communication should be directed to Lisa Nhung Klaus whose telephone number is (571) 272-1993, and whose fax number is 703-872-9306. In the event that I am not reached, you can contact my supervisor, Mr. Elvin G. Enad at (571)272-1990 or the tech center receptionist at (703) 308-1782.

LK

Lisa Nhung Klaus

Patent Examiner - Art Unit 2832

June 15, 2005

*Ch*  
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6/24/05

